

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

Marie Burrell,

Plaintiff,

V.

Financial Asset Management Systems,
Inc.; and DOES 1-10, inclusive,

Defendants.

:
: Civil Action No.: _____

: COMPLAINT
: JURY TRIAL DEMANDED

For this Complaint, Plaintiff, Marie Burrell, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendants’ repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (the “FDCPA”), and the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the “TCPA”).

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Marie Burrell (“Plaintiff”), is an adult individual residing in Conley, Georgia, is a “consumer” as the term is defined by 15 U.S.C. § 1692a(3), and is a “person” as defined by 47 U.S.C. § 153(39).

4. Defendant Financial Asset Management Systems, Inc. (“FAMS”), is a business entity located in Tucker, Georgia, operating as a collection agency, is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6), and is a “person” as defined by 47 U.S.C. § 153(39).

5. Does 1-10 (the “Collectors”) are individual collectors employed by FAMS and whose identities are currently unknown to Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

6. FAMS at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

7. Plaintiff allegedly incurred a financial obligation (the “Debt”) to an original creditor (the “Creditor”).

8. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes, which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

9. The Debt was purchased, assigned or transferred to FAMS for collection, or FAMS was employed by the Creditor to collect the Debt.

10. Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. FAMS Engages in Harassment and Abusive Tactics

11. Within the last year, FAMS began calling Plaintiff’s cellular telephone, number 678-XXX-0046, in an attempt to collect the Debt.

12. FAMS called Plaintiff from telephone number 636-925-5300 using an automatic telephone dialing system (“ATDS”) and/or using a prerecorded message.

13. When Plaintiff answered calls from FAMS, she heard a prerecorded message which stated that FAMS was calling in an attempt to collect the Debt.

14. On numerous occasions, Plaintiff explained to FAMS that money was being taken out of her Social Security income to pay the Debt and that she could not afford to make any additional payments toward the Debt. As such, Plaintiff requested that FAMS cease calling her cellular telephone number,

15. Nevertheless, FAMS continued to harass Plaintiff with automated calls on a daily basis.

C. Plaintiff Suffered Actual Damages

16. Plaintiff has suffered and continues to suffer actual damages as a result of Defendants' unlawful conduct.

17. As a direct consequence of Defendants' acts, practices and conduct, Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

COUNT I
VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.

18. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

19. Defendants' conduct violated 15 U.S.C. § 1692d in that Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse Plaintiff in connection with collection of the Debt.

20. Defendants' conduct violated 15 U.S.C. § 1692d(5) in that Defendants caused a phone to ring repeatedly and engaged Plaintiff in telephone conversations with the intent to annoy and harass Plaintiff.

21. Defendants' conduct violated 15 U.S.C. § 1692f in that Defendants used unfair and unconscionable means to collect the Debt.

22. The foregoing acts and omissions of Defendants constitute numerous and multiple violations of the FDCPA.

23. Plaintiff is entitled to damages as a result of Defendants' violations.

COUNT II
VIOLATIONS OF THE TCPA –
47 U.S.C. § 227, et seq.

24. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

25. At all times mentioned herein, Defendants called Plaintiff's cellular telephone number using an ATDS and a prerecorded or artificial voice.

26. Defendants continued to place automated calls to Plaintiff's cellular telephone number despite knowing that they lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

27. The telephone number called by Defendants was assigned to a cellular telephone service pursuant to 47 U.S.C. § 227(b)(1).

28. The calls from Defendants to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

29. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call made in negligent violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

30. Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each call made in knowing and/or willful violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendants:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);
3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3);
4. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
and
5. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: February 16, 2016

Respectfully submitted,

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